

# ARKANSAS SUPREME COURT

No. CR 08-454

MICHAEL L. DOUGLAS  
Petitioner

v.

HON. ROBERT BYNUM GIBSON, JR.,  
CIRCUIT JUDGE  
Respondent

Opinion Delivered May 29, 2008

PRO SE PETITION FOR WRIT OF  
MANDAMUS [CIRCUIT COURT OF  
DREW COUNTY, CR 2006-149, CR  
2006-161, CR 2007-1, CR 2007-3, CR  
2007-4]

PETITION MOOT.

## PER CURIAM

Now before us is a pro se petition for writ of mandamus filed by petitioner Michael L. Douglas, also known as Michael Lorenzo Douglas. The petition asks this court to direct the circuit judge below to hold a hearing on a petition pursuant to Ark. R. Crim. P. 37.1 and a motion to return seized property filed by petitioner. For the reasons stated herein, the petition is moot.

In 2007, petitioner entered a plea of guilty to charges in five criminal cases. On June 18, 2007, petitioner timely filed an unverified pro se petition under Rule 37.1 that pertained to all five cases. In the instant petition for writ of mandamus, filed on April 14, 2008, petitioner contends that the Honorable Robert Bynum Gibson, Jr., had failed to act on the petition in a timely manner. He also asks that an evidentiary hearing be held on the petition.

Judge Gibson filed a response to the mandamus petition to which was appended a copy of his order entered on August 9, 2007, that disposed of the Rule 37.1 petition. As the court has denied the Rule 37.1 petition, the petition for writ of mandamus is moot as it pertains to the Rule 37.1 petition.

On April 11, 2007, in case CR 2006-161, petitioner filed a motion for the return of property seized in that matter, specifically \$553 in U.S. currency, a 1992 Lincoln Town Car and a Motorola cell phone. In the petition for writ of mandamus, petitioner contends that Judge Gibson failed to respond to his motion and seeks a hearing on the motion or the return of his property.

Appended to Judge Gibson's response to the mandamus petition was a copy of the agreed judgment entered on January 31, 2007, in *State of Arkansas v. \$553.00 in U.S. Currency*, CV 2006-152. The agreed judgment, consented to by petitioner's attorney in that matter, provided that the 1992 Lincoln Town Car would be returned to petitioner. The Motorola cell phone and \$553.00 in U.S. Currency would be forfeited pursuant to Ark. Code Ann. § 5-64-505 (Repl. 2005) under the agreement. This agreed judgment settled the issue of ownership of the seized property. Therefore, the petition for writ of mandamus seeking a hearing on the motion is moot.

Petitioner made reference to additional motions filed in the trial court regarding the Rule 37.1 petition and the motion to return seized property. As both the petition and motion have been resolved, the petition for writ of mandamus related to these motions is also moot.

Finally, in petitioner's response to respondent's motion to dismiss the instant petition, petitioner raises new allegations and arguments not contained in the original petition for writ of mandamus. We do not address the merits of a question where the argument is raised for the first time in a response. *See State v. McCormack*, 343 Ark. 285, 34 S.W.3d 735 (2000).

Petition moot.